To: Chancellor’s Cabinet
CC: Ron Mitchelson, Interim Chancellor
     Chris Locklear, Chief of Staff
From: Paul Zigas, Interim University Counsel and Vice Chancellor for Legal Affairs
Date: June 15, 2020
Re: New Contract Processes in Light of COVID-19

This revised memo provides updated direction and procedures to effectuate the implementation of the Chancellor’s March 27, 2020 directives regarding changes to the University’s contracting processes in light of the uncertain realities in the wake of COVID-19. As of the date of this memo, I am directing the attorneys in the Office of University Counsel not to review any contract or appointment letter that has not gone through the process described in this memo.

Business Arrangements and Non-Human Resources Contracts

1. The department or business unit requesting either OUC review OR a business arrangement valued at more than $100,000¹ shall complete a contract coversheet attached hereto as Exhibit A—OUC Contract Review Request. This coversheet will be available on the OUC website and may be modified from time to time. The most current version of the coversheet posted on the OUC website should be used.

2. If the proposed business arrangement is valued at more than $100,000, it shall be presented to the Vice Chancellor/Athletic Director of the Department requesting the contract for review, feedback and approval. The Vice Chancellor’s approval will be noted on the coversheet.

3. Once the Vice Chancellor or Athletic Director has approved, the department shall send the preapproval coversheet and contract (if available) to ecucontractreview@ecu.edu. The coversheet will be reviewed by OUC for completeness, and additional information may be requested.

4. The Office of University Counsel will then share the coversheet and accompanying documents with the Vice Chancellor for Administration and Finance and Interim Chancellor for their feedback and preapproval. If preapproval is declined, the department will be so informed, along with any available rationale for the declination.

¹ This includes any new ECU contracts or the amendment of ECU contracts that require ECU to pay $100,000 or more over the term of the contract or that will result in a payment to ECU of $100,000 or more over the term of the contract (i.e., both revenue and expense contracts). If multiple contracts will be issued that, in aggregate, will meet the $100,000 or more threshold (for example, campus living and dining contracts for students), they, too are subject to this review and approval process. It also includes research agreements with private sponsors (e.g., GSK, IBM, etc.), but not agreements for federal awards.
5. Once preapproval is obtained by the Vice Chancellor for Administration and Finance and the Interim Chancellor, an attorney from OUC will review the contract for legal sufficiency and make other recommendations to the department and other stakeholders concerning the terms of the contract. In most cases, the department will facilitate negotiation with the third party.2

6. If there remain recommendations from OUC that have not been incorporated into the contract such that OUC cannot give a clean approval, the contract will be sent back to the Vice Chancellor for Administration and Finance and Interim Chancellor for final approval, along with any caveats from OUC.

7. Once the Office of University Counsel has approved for legal sufficiency and/or the Interim Chancellor and VC for Administration and Finance have given final approval, and the contract is in final form, the person at the institution delegated the signature authority from the Chancellor may execute, in accordance with the department’s or division’s standard contract processes.

8. Note: It is incumbent upon each person with delegated signature authority to ensure that each contract has been reviewed and approved in accordance with this process.

**Human Resources Actions**3

1. All HR actions for any employee who will be or has the potential to be paid $150,000 or more annually4 must be approved by the Vice Chancellor of Administration and Finance and the Interim Chancellor.5 If all terms of a specific HR action for a named employee, including compensation, title, classification and term have been explicitly approved by the Vice Chancellor of Administration and Finance and Interim Chancellor through HR processes AND an-OUC approved template letter is used without modification, no additional OUC, Vice Chancellor, or Interim Chancellor approval is needed as such actions are exempt from this process.

2. If an HR action has not been approved by the Vice Chancellor for Administration and Finance and Interim Chancellor through HR processes, OR there has been a change from the time of the initial approval, the department or business unit requesting the HR action shall follow the process in sections 4-7 below.

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2 Construction contracts valued at $2 million or more, and change orders on those contracts, will not need OUC review unless specifically requested by department, but do need to go through the OUC coversheet/ ECUcontractreview@ecu.edu process to obtain Interim Chancellor and Vice Chancellor for Administration and Finance review and approval.

3 At this time, Human Resources actions in Academic Affairs are exempt from the processes in this memo, as this Division is subject to a separate process approved by the Chancellor.

4 Bonuses, stipends, or other incentives that may be paid in addition to base salary are to be included when calculating the potential to be paid $150,000 annually.

5 Letters of clarification of duties or other terms which do not materially change ECU’s contractual obligations are exempt from this process. For instance, a letter that reassigns a faculty member’s percentage allocation among departments without changing compensation or the length of appointment and that does not make a new or re-appointment would be exempt from this process.
3. If an HR action results in an appointment letter or contract that does not use an OUC-approved template without modification, the department or business unit requesting the HR action shall follow the process in sections 4-7 below.

4. The department or business unit requesting the HR action shall complete a contract coversheet attached hereto as Exhibit A—OUC Contract Review Request. This coversheet will be available on the OUC website and may be modified from time to time. The most current version of the coversheet posted on the OUC website should be used.

5. The date of the approval of the Vice Chancellor/Athletic Director of the Department responsible for the HR action shall be noted on the contract coversheet.

9. Once the Vice Chancellor or Athletic Director has approved, the department shall send the coversheet and contract or appointment letter to ecucontractreview@ecu.edu. The coversheet will be reviewed by OUC for completeness, and additional information may be requested.

10. The Office of University Counsel will then share the coversheet and accompanying documents with the Vice Chancellor for Administration and Finance and Interim Chancellor for their feedback and approval. If approval is declined, the department will be so informed, along with any available rationale for the declination.

11. Once approval is obtained by the Vice Chancellor for Administration and Finance and the Interim Chancellor, an attorney from OUC will review the contract for legal sufficiency and make other recommendations to the department and other stakeholders concerning the terms of the contract only if a non-modified OUC-approved template letter is not used.

12. If recommendations from OUC remain that have not been incorporated into the appointment letter or contract such that OUC cannot give a clean approval, the contract will be sent back to the Vice Chancellor for Administration and Finance and Interim Chancellor for final approval, along with any caveats from OUC.

13. Once the Office of University Counsel has approved for legal sufficiency and/or the Interim Chancellor and VC for Administration and Finance have given final approval, and the contract is in final form, the person at the institution delegated the signature authority from the Chancellor may execute, in accordance with the department’s or division’s standard contract or hiring processes.

14. Note: It is incumbent upon each person with delegated signature authority to ensure that each contract has been reviewed and approved in accordance with this process.